

Frankfurt und Hamburg vor dem Reichskammergericht Zwei Handels- und Handwerkszentren im Vergleich (Robert Riemer, 2012)

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Frankfurt und Hamburg vor dem Reichskammergericht. Zwei Handels- und Handwerkszentren im Vergleich

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became common practice to appeal decisions by the territorial court to Speyer (383).

In practice, then, the real relationship between secular and religious judicial authorities differed from one territory to another and from case to case. Insisting upon the complexity of legal practice, the author has bravely resisted any attempt at making sweeping generalizations, even if this renders his work very difficult to access for non-specialists. The reader remains left with only a couple of general inferences from the many complex court cases that have been meticulously described and analysed in the book under review. A rather obvious finding is that the delimitation of judicial competence was as futile in early-modern times as it had been in the late Middle Ages (717), but the complexity of the matter is further amplified by the fact that the definition of secular and spiritual affairs, respectively, remained unclear as well (718). More concrete is the observation that the highest courts in the Holy Roman Empire, namely the Imperial Chamber Court and the Aulic Council (*Reichshofrat*) resisted appeals with Papal representatives or the Rota Romana, the supreme court of the Catholic Church (722). This is one of the limited yet interesting examples of conclusions about the struggle for judicial sovereignty in the early-modern German area which could serve as a starting point for comparative legal historical scholarship.

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Frankfurt und Hamburg vor dem Reichskammergericht. Zwei Handels- und Handwerkszentren im Vergleich, by Robert Riemer, Cologne, Böhlau, 2012, 431 pp., €59.90 (hbk), ISBN 978-3-412-20822-6

This book is the published version of Robert Riemer's doctoral dissertation, which was completed in 2006 at the Ernst-Moritz-Arndt-Universität of the former Hanseatic city of Greifswald. The book evaluates the institutional integration of two major commercial centres, Hamburg and Frankfurt, into the overall administrative system of the Holy Roman Empire. Riemer investigates the extent to which that process of integration can be regarded as successful by means of an in-depth analysis of the lawsuits that originated in Frankfurt and Hamburg and were brought before the Imperial Chamber Court during its existence between 1495 and 1806. In other words, Riemer asks who approached the Imperial Chamber Court, and for what kinds of legal dispute (3). The answers to these questions may prove to be different depending on whether a case originated in Frankfurt or Hamburg, so an examination of such cases may illustrate

and explain the different extents to which institutional integration took place in the two cities.

Following a concise introduction (part I), which sets out issues such as the relevant research questions and the source material underpinning the research, the author continues with a quantitative analysis (29–172) and a comparative study (172–94) of the 1,634 Frankfurt-based and 1,369 Hamburg-based lawsuits that were brought before the Imperial Chamber Court in the period in question (part II). Riemer's principal (if not only) sources in this research were collections of case materials preserved at the Institut für Stadtgeschichte in Frankfurt and the Staatsarchiv Hamburg. Riemer first sets out the appellate court structure and the process of appeal within the two cities' local courts before discussing the number of lawsuits brought before the Imperial Chamber Court. He examines these cases chronologically, mentioning their duration – on average rarely exceeding five years – as well as the subject matters that caused the various conflicts in each case. As regards the latter, the author makes use of the categories by which cases can be classified that were devised by Filippo Ranieri in his *Recht und Gesellschaft im Zeitalter der Rezeption* (1985) and fine-tuned by Nils Jörn and Tobias Freitag in 2000.¹ As regards the Frankfurt-based lawsuits, disputes over commercial, guild and financial matters comprise almost 60% of all cases. In Hamburg, about 55% of the lawsuits brought to the Imperial Chamber Court concerned similar issues, despite the existence of a more restrictive *ius de non appellando* (172–74, 185–87). For Riemer, these cases show that the inhabitants of both cities accepted the Imperial Chamber Court both as an intermediary in the resolution of legal conflicts and as an overarching institution that could overrule the decisions made by local courts (351). This is particularly notable regarding Frankfurt, taking into account the number of inhabitants in both cities during the period under investigation (106, 350).

Part I shows that trade and finance (75%) and craftsmanship (25%) were the most common sources of controversy in the lawsuits brought before the Imperial Chamber Court by citizens of Hamburg and Frankfurt. Riemer analyses these issues further in parts III and IV, which are again based on a quantitative-comparative approach and provide fully elaborated case studies (292–306, 331–44). Part III on 'commercial and financial lawsuits' (195–291) is considerably longer than part IV on 'craftsmanship lawsuits' (313–30) due to the modest amount of data available on lawsuits involving artisans (which itself illustrates the difficulty that they faced in bringing cases to the Imperial Chamber Court). The observations made in these parts of the study are also less ground-breaking. As regards

¹Filippo Ranieri, *Recht und Gesellschaft im Zeitalter der Rezeption. Eine rechts- und sozialgeschichtliche Analyse der Tätigkeit des Reichskammergerichts im 15. Jahrhundert* (Quellen und Forschungen zur höchsten Gerichtsbarkeit im Alten Reich 17, Böhlau 1985); Tobias Freitag and Nils Jörn, 'Zur Inanspruchnahme der obersten Reichsgerichte im südlichen Ostseeraum 1495–1806' in Nils Jörn and Michael North (eds), *Die Integration des südlichen Ostseeraumes in das Alte Reich* (Quellen und Forschungen zur höchsten Gerichtsbarkeit im Alten Reich 35, Böhlau 2000).

commercial lawsuits, the available data is examined in relation to various trade-related subjects (private partnerships, insurances, seizures, bankruptcies, etc) in order to enable the identification of possible differences between Frankfurt and Hamburg. Indeed, in Hamburg, disputes regarding the city's guild system, as well as seizures, private partnerships and insurances, prove to be forwarded to the Imperial Chamber Court most frequently (197). Frankfurt, on the other hand, was not a port city and therefore there were very few insurance-related disputes. The Frankfurt-based lawsuits do, however, evince the city's well-established familiarity with the use of bills of exchange (237) as well as private partnerships, bankruptcies and the seizure of goods (225). As regards finance, both cities had a great number of controversies relating to claims arising from obligations, loans and sureties (206, 237).

In addition to the specific subject-matters of the disputes, part III addresses in a more detailed way both the social as well as the geographical background of the litigating parties (209–24, 248–91). Both of these are factors which could facilitate or impede one's access to the Imperial Chamber Court and consequently ease or hamper the successful integration of both merchant cities into the overall institutional framework of the Holy Roman Empire. Further, Riemer explains that the high cost of legal action meant that most of the lawsuits were brought to the Imperial Chamber Court by the cities' wealthy merchant classes. Here too the significant presence of 'foreign' merchants, not only including merchants from neighbouring regions but also those from beyond the Holy Roman Empire, is striking (392–93). The observation makes Riemer's book particularly interesting to an international readership. More specifically, the home countries of the foreign merchants involved in the Hamburg-based lawsuits demonstrate the wider geographical scope of the trading activities of this port city in comparison to Frankfurt, which was essentially a trade-fair city (222–23, 250–52, 397–98). However, in Frankfurt the *number* of cases involving foreign merchants surpassed that which Riemer found for Hamburg (291, 310). Of course, as rightly acknowledged by the author himself (347, 355–56), one may question whether it is appropriate to draw such conclusions on the source material used. Moreover, the same is true of Riemer's elaborate evaluations about the active involvement in commerce of women and Jews on the basis of their appearing in the lawsuits brought before the Imperial Chamber Court (191–92, 219–20, 284–88). Here, and also in the author's analysis of the merchandise the litigating merchants had been trading (239–47), the link with the overall research objective of the study is not always clear. The presence of these paragraphs seems to confirm the persistence of a weakness in historical research: concern for the overall potential of the available source material undermining an attentive focus on the fundamental research question(s). Similar symptoms are to be found in Riemer's introduction when explaining the 'additional objectives' of his research activities: to see whether economic crises are reflected in the number of bankruptcies dealt with before the Imperial Chamber Court (9), or whether an increase in lawsuits over the three centuries under investigation indicates increased commercial activities within the respective cities (11).

Given its magnitude, Riemer manages to address his overall research objective most proficiently by applying a well-balanced and mindful approach, and advances its feasibility by opting for a commercially-oriented focus. The study both provides further explanations for well-known points of understanding and delivers various original insights. From a legal-historical perspective, the latter may remain quite limited, but especially institutional and economic historians shall read the book with great pleasure. Of course, the process of institutional integration is not a one-way street. One has to keep in mind that such integration was not solely determined by the Imperial Chamber Court but also through changes in local institutions and instruments that occurred in the cities of Hamburg and Frankfurt. Understanding of the local factors relevant to the process of institutional integration would be essential in order to confirm, or possibly refute, the conclusions made by the author of the study under review. For example, one might consider the use of arbitration and mediation, as opposed to litigation, by merchants to resolve commercial conflicts during the period under investigation. In general, alternative methods of dispute resolution are believed to be favoured by merchants over recourse to local jurisdictional courts. Additionally, institutional integration should be assessed in light of the merchant community's attitude towards Roman law, which was the system of legal rules officially applied by the judges of the Imperial Chamber Court. After all, merchants are generally thought to have availed themselves of self-devised sets of mercantile practices and customs instead of Roman law principles. Understandably, the scale of such questions calls for separate studies on these points. To conclude, I would like to express my hope that Riemer's study may encourage legal historians to conduct studies on the substantive law as it was applied by the members of the Imperial Chamber Court in the numerous commercial and financial lawsuits identified by Riemer. Particularly because of the significant involvement of 'foreign' merchants in these cases, this type of research would likely result in most interesting observations as regards the historical development of commercial law in Europe.

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Legal orientalism: China, the United States, and modern law, by Teemu Ruskola, Cambridge, MA, Harvard University Press, 2013, 352 pp., €36.00 (hbk), ISBN 978-0-674-07306-7

The book under review is a study of legal discourses and how these discourses have shaped the conditions within which legal practices are formed. 'Legal